

§ 229.1121 (Item 1121) Distribution and pool performance information.

(a) Describe the distribution for the related distribution period and the performance of the asset pool during the distribution period. Provide appropriate introductory and explanatory information to introduce any material terms, parties or abbreviations used (or a cross-reference to a Commission filing where such information may be found). Present statistical information in tabular or graphical format, if such presentation will aid understanding. While the material information regarding the related distribution and pool performance will vary depending on the nature of the transaction, such information may include, among other things:

(1) Any applicable record dates, accrual dates, determination dates for calculating distributions and actual distribution dates for the distribution period.

(2) Cash flows received and the sources thereof for distributions, fees and expenses (including portfolio yield, if applicable).

(3) Calculated amounts and distribution of the flow of funds for the period itemized by type and priority of payment, including:

(i) Fees or expenses accrued and paid, with an identification of the general purpose of such fees and the party receiving such fees or expenses.

(ii) Payments accrued or paid with respect to enhancement or other support identified in Item 1114 of this Regulation AB (such as insurance premiums or other enhancement maintenance fees), with an identification of the general purpose of such payments and the party receiving such payments.

(iii) Principal, interest and other distributions accrued and paid on the asset-backed securities by type and by class or series and any principal or interest shortfalls or carryovers.

(iv) The amount of excess cash flow or excess spread and the disposition of excess cash flow.

(4) Beginning and ending principal balances of the asset-backed securities.

(5) Interest rates applicable to the pool assets and the asset-backed securities, as applicable. Consider providing interest rate information for pool as-

sets in appropriate distributional groups or incremental ranges.

(6) Beginning and ending balances of transaction accounts, such as reserve accounts, and material account activity during the period.

(7) Any amounts drawn on any credit enhancement or other support identified in Item 1114 of this Regulation AB, as applicable, and the amount of coverage remaining under any such enhancement, if known and applicable.

(8) Number and amount of pool assets at the beginning and ending of each period, and updated pool composition information, such as weighted average coupon, weighted average life, weighted average remaining term, pool factors and prepayment amounts. For asset-backed securities backed by leases where a portion of the securitized pool balance is attributable to residual values of the physical property underlying the leases, this information also would include turn-in rates and residual value realization rates.

(9) Delinquency and loss information for the period. In addition, describe any material changes to the information specified in Item 1100(b)(5) of this Regulation AB regarding the pool assets.

(10) Information on the amount, terms and general purpose of any advances made or reimbursed during the period, including the general use of funds advanced and the general source of funds for reimbursements.

(11) Any material modifications, extensions or waivers to pool asset terms, fees, penalties or payments during the distribution period or that have cumulatively become material over time.

(12) Material breaches of pool asset representations or warranties or transaction covenants.

(13) Information on ratio, coverage or other tests used for determining any early amortization, liquidation or other performance trigger and whether the trigger was met.

(14) Information regarding any new issuance of asset-backed securities backed by the same asset pool, any pool asset changes (other than in connection with a pool asset converting into cash in accordance with its terms), such as additions or removals

in connection with a prefunding or revolving period and pool asset substitutions and repurchases (and purchase rates, if applicable), and cash flows available for future purchases, such as the balances of any prefunding or revolving accounts, if applicable. Disclose any material changes in the solicitation, credit-granting, underwriting, origination, acquisition or pool selection criteria or procedures, as applicable, used to originate, acquire or select the new pool assets.

(b) During a prefunding or revolving period, or if there has been a new issuance of asset-backed securities backed by the same pool under a master trust during the fiscal year of the issuing entity, provide the information required by Items 1110, 1111 and 1112 of this Regulation AB applied taking the revised pool composition into account in the Form 10-D report (§249.312 of this chapter) for the last required distribution of the fiscal year of the issuing entity. In addition, provide such updated information in the first Form 10-D report for the period in which the prefunding or revolving period ends (if applicable). However, no disclosure need be provided by this paragraph if the information has not materially changed from that previously provided in an Exchange Act report relating to the asset-backed securities or in an effective registration statement under the Securities Act or a prospectus timely filed pursuant to §230.424 of this chapter under the same Central Index Key (CIK) code regarding a subsequent issuance of asset-backed securities backed by a pool of assets that includes the pool assets that are the subject of this paragraph.

(c) *Repurchases and replacements.* (1) Provide the information required by Rule 15Ga-1(a) (17 CFR 240.15Ga-1(a)) concerning all assets of the pool that were subject of a demand to repurchase or replace for breach of the representations and warranties.

(2) Include a reference to the most recent Form ABS-15G (17.CFR 249.1400) filed by the securitizer (as that term is defined in Section 15G(a) of the Securities Exchange Act of 1934) and disclose the CIK number of the securitizer.

[70 FR 1597, Jan. 7, 2005, as amended at 76 FR 4511, Jan. 26, 2011]

§ 229.1122 (Item 1122) Compliance with applicable servicing criteria.

(a) *Reports on assessment of compliance with servicing criteria for asset-backed securities.* As required by paragraph (b) of §240.13a-18 or 240.15d-18 of this chapter, provide as an exhibit from each party participating in the servicing function a report on an assessment of compliance with the servicing criteria set forth in paragraph (d) of this section that contains the following:

(1) A statement of the party's responsibility for assessing compliance with the servicing criteria applicable to it;

(2) A statement that the party used the criteria in paragraph (d) of this section to assess compliance with the applicable servicing criteria;

(3) The party's assessment of compliance with the applicable servicing criteria as of and for the period ending the end of the fiscal year covered by the Form 10-K report (§249.310 of this chapter). This discussion must include disclosure of any material instance of noncompliance identified by the party; and

(4) A statement that a registered public accounting firm has issued an attestation report on the party's assessment of compliance with the applicable servicing criteria as of and for the period ending the end of the fiscal year covered by the Form 10-K report.

(b) *Registered public accounting firm attestation reports.* Provide the registered public accounting firm's attestation report required by paragraph (c) of §240.13a-18 or 240.15d-18 of this chapter on the party's assessment of compliance with the applicable servicing criteria as an exhibit.

(c) *Additional disclosure for the Form 10-K report.* (1) If any party's report on assessment of compliance with servicing criteria required by paragraph (a) of this section, or related registered public accounting firm attestation report required by paragraph (b) of this section, identifies any material instance of noncompliance with the servicing criteria, identify the material instance of noncompliance in the report on Form 10-K.

(2) If any party's report on assessment of compliance with servicing criteria required by paragraph (a) of this